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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

JUDI MARI CARSON, Individually,
and as the Administrator of the Estate of
KELLINA SUE WEED, Deceased,

Plaintiff,

vs.

WALGREEN OSHKOSH, INC., WALGREEN CO.,
IVAN INCHAUREGUI, DOES 1 – V and ROE
ENTITIES I – V,

Defendants.

CASE NO: 2:17-cv-02984
DEPT. NO: KJD-CWH

JOINT MOTION TO REMAND

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

COME NOW Plaintiff Judi Mari Carson, Individually, and as the Administrator of the Estate of Kellina Sue Weed, Deceased, by and through her attorneys of record Craig K. Perry, Esq. of CRAIG K. PERRY & ASSOCIATES and Craig M. Sico and Louie J. Cook of SICO HOELSCHER HARRIS & BRAUGH LLP and Defendant Walgreen Oshkosh, Inc. and Walgreen Co., by and

1 through their attorney of record James F. Holtz, Esq. of LAW OFFICE OF JAMES F. HOLTZ, hereby
2 file their Joint Motion to Remand.

3
4 This case was originally filed in Clark County, Nevada on November 14, 2017. The parties
5 included Judi Carson, a resident of Oregon, Ivan Inchaurregui, a resident of Nevada, and
6 Walgreens Oshkosh, Inc. is an Illinois Corporation with its principal place of business in Illinois.

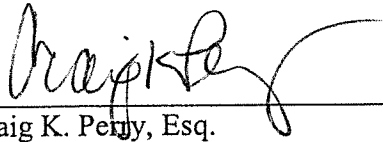
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8 On November 28, 2017 Ivan Inchaurregui was served with process at his Las Vegas,
9 Nevada residence. The proof of service is attached hereto as **Exhibit A**. On December 1, 2017
10 after Inchaurregui was served, Walgreens Oshkosh, Inc. filed its notice of removal. At the time of
11 removal, proofs of service had not yet been filed and Walgreens Oshkosh, Inc. was unaware that
12 Inchaurregui, the in-state defendant, had been properly served with process.

13
14 Since an in-state Defendant (Inchaurregui) was served before the notice of removal was
15 filed on December 1, 2017, the parties agree removal was improper under 28 U.S.C. § 1441(b)(2).
16 § 1441(b)(2) prevents removal of a case from state to federal court when a citizen of the state in
17 which the action is brought is properly joined and served before removal. *E.g., SWC Inc. v. Elite*
18 *Promo, Inc.*, 234 F.Supp.3d 1018, 1020 (N.D. Cal. 2017); *Klayman v. Judicial Watch, Inc.* 185
19 F.Supp.3d 67, 69 (D.C.C. 2016); *Reimold v. Gokaslan*, 110 F.Supp.3d 641, 644 (D.Md. 2015).

20
21 Here, the parties agree that Inchaurregui is not improperly or fraudulently joined, that
22 Inchaurregui was properly served before removal, and that Inchaurregui is a citizen of Nevada, the
23 State in which the lawsuit is pending. Therefore, the parties agree that remand is proper under 28
24 U.S.C. §1447(c) and that this case should be remanded back to State Court. The cost of remand
25 will be borne by the party incurring them.

1 Respectfully Submitted,

2 DATED this 14th day of December 2017

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5 Craig K. Perry, Esq.

6 Nevada State Bar No. 3786

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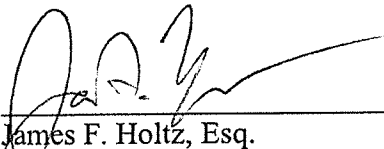
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17 *Attorneys for Plaintiffs*

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28 *Attorneys for Defendants*

Walgreen Oshkosh, Inc. and

Walgreen Co.

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